



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

Certified Mail #7017 1450 0000 3152 7665

February 27, 2018

Mr. Terry Dusz
4K Industrial Park, LLC
1001 Main Street
Martins Ferry, Ohio 43935

Re: 4K Industrial Park
Notice of Violation (NOV)
NOV
RCRA C - Hazardous Waste
Belmont County
OHD 010448231

Hazardous Waste Program – DERR

Subject: Notice of Violation

Dear Mr. Dusz:

Thank you for returning my phone call on January 22, 2018 regarding the outstanding closure requirements for your property, 4K Industrial Park, LLC located in Martins Ferry, Ohio. I explained to you that the purpose of my phone call was to discuss the closure pertaining to the release of ChemTreat solution (D007) from the former ChemTreat area of the Severstal Wheeling/RG Steel, LLC facility whose property you now own. During the phone conversation you stated that you believed you were not liable for the outstanding closure obligations due to the bankruptcy and the August 10, 2012 Martins Ferry Sale Order (Sale Order). You noted that there are ground water monitoring wells on-site, that you had installed, which could be used to address the outstanding closure obligations. However, you stated, you were not responsible for the ground water sampling since the violations occurred prior to your purchase of the property. Upon Ohio EPA review of the Sale Order, Paragraph 38 maintains that the current owner of the site is liable for closure and any unclosed hazardous waste units on the site. Please review the historical information below, (which you stated you were aware of during our phone conversation), regarding the outstanding closure obligations for the ChemTreat area.

Findings

Ohio EPA is providing a description of the following closure violations of Ohio's hazardous waste laws, to bring 4K Industrial Park, LLC into compliance. Ohio EPA recommends promptly addressing these violations within 14 days of your receipt of this letter.

1. Ohio Administrative Code (OAC) Rule 3745-55-12, Closure Plan Amendment:

As you are aware, the former Severstal Wheeling, Inc. submitted a closure plan for a release of spent ChemTreat solution (D007) in the ChemTreat area on March 20, 2008. The plan was reviewed and a list of modifications to the plan were sent from Ohio EPA to Severstal Wheeling, Inc. on April 18, 2008. On November 18, 2009, Severstal Wheeling, Inc. was ordered to implement the March 20, 2008 closure plan with those modifications. Severstal Wheeling, Inc. implemented the closure plan in 2010, however, the closure was never completed.

An Ohio EPA March 18, 2011 letter sent to Mr. Bud Smith of RG Steel, LLC, stated, due to the evidence of soil contamination and the detection of hexavalent chromium in ground water, the ChemTreat Spill area was classified as a "waste-in-place" closure since it could not be certified as a risk-based closure. The March 18, 2011 letter went on to explain that because of changes to the closure plan, an amended closure plan, including a post-closure monitoring plan, would need to be submitted in accordance with Ohio Administrative Code (OAC) rule 3745-55-12.

Ohio EPA met with Mr. Bud Smith of RG Steel, LLC on June 20, 2011 to discuss what actions were needed to complete closure of the ChemTreat Spill Area. During that meeting, Ohio EPA provided RG Steel, LLC with the necessary information needed to properly monitor the ground water contamination. At that time RG Steel, LLC proposed to install and sample an additional ground water well outside of the building south of the ChemTreat Spill Area to monitor what is believed to be an upgradient flow direction. In addition, the existing Ohio Bureau of Underground Storage Tank Regulations "BUSTR" monitoring wells installed in response to a past underground storage tank leak north of the main building (in what is believed to be in a downgradient flow direction location) could be incorporated to monitor groundwater contaminant levels in addition to the ground water monitoring well previously installed inside the building. These ground water monitoring wells were proposed to be sampled as an amendment to the closure plan (if the wells proved to be in a down gradient flow direction of the spill area). The closure plan would be amended to meet the requirements of OAC 3745-54-90 through 101 to incorporate the additional ground water monitoring wells. RG Steel, LLC never submitted the amended closure plan to the Director of Ohio EPA for review and approval.

To mitigate the closure violation, Ohio EPA recommends that 4K Industrial Park submit a closure plan or an amended closure plan to address the ChemTreat area to the Director for review and comment.

- 2. OAC Rule 3745-55-42(A), Cost estimate for facility closure:** The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the Facility.

4K Industrial Park, LL must submit a detailed closure cost estimate in accordance with the approved Closure Plan. The estimate must be based on the costs of hiring a third party.

In previous NOV letters submitted to 4K Industrial Park LLC, on September 26, 2013, September 4, 2014, and September 9, 2015, Ohio EPA cited this violation for failure to provide a cost estimate for closure.

- 3. OAC Rule 3745-55-43, Financial assurance for facility closure:** The owner or operator of each facility must establish financial assurance for closure of the facility.

4K Industrial Park, LLC must establish financial assurance at least equal to the amount of the current closure cost estimate. The acceptable mechanisms that may be used to demonstrate financial assurance are specified in OAC rule 3745-55-43.

In previous NOV letters submitted on September 26, 2013, September 4, 2014 and September 9, 2015, to 4K Industrial Park, LLC, Ohio EPA cited this violation for failure to provide financial assurance for closure.

- 4. OAC Rule 3745-55-47(A), Liability requirements:** An owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least one million dollars per occurrence with an annual aggregate of at least two million dollars, exclusive of legal defense costs.

4k Industrial Park, LLC must establish and maintain liability coverage until the site is certified closed. The owner or operator must demonstrate liability coverage with the acceptable mechanisms specified in paragraph (A) of OAC rule 3745-55-47.

In previous NOV letters submitted on September 26, 2013, September 4, 2014 and September 9, 2015, to 4K Industrial Park, LLC Ohio EPA cited this violation for failure to provide liability requirements.

Conclusion

The Ohio EPA requests that 4K Industrial Park, LLC promptly undertake the necessary measures to return to compliance with Ohio's environmental laws and rules. Within 14 days of receipt of this letter, please provide documentation to Ohio EPA of the actions taken to resolve the violations cited above. Please submit a compliance plan on how 4K Industrial Park, LLC will correct the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and

Mr. Terry Dusz
4K Industrial Park, LLC
Page 4

photographs as appropriate may be submitted via the postal service or electronically to maria.galanti@epa.ohio.gov.

Please be advised that violations cited above will continue until the violations have been properly resolved. Failure to comply with Chapter 3734 of the ORC and rules promulgated thereunder may result in an administrative or civil penalty.

The submission of any requested information in response to this letter does not constitute waiver of the Ohio EPA's authority to seek administrative or civil penalties as provided in Chapter 3734 of the ORC.

This NOV does not constitute a waiver of potential violations not discovered.

You can find Ohio's hazardous waste rules and other information on the division's web page at: <http://epa.ohio.gov/derr/hazwaste.aspx>. or <http://epa.ohio.gov/derr/RCRA.aspx>

Should you have any questions, please contact me at (740) 380-5289, or maria.galanti@epa.ohio.gov.

Sincerely,



Maria Galanti, Southeast District Office
Site Coordinator
Division of Environmental Response and Revitalization

MG/mr

ec: Scott Bergreen, Southeast District Office, HW-DERR
Tammy McConnell, Central Office, HW-DERR
Mitch Mathews, DERR-CO
Erik Hagen, DERR-CO
EPA.RCRAInfoData@epa.ohio.gov